

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HERBERT HORATIO SIMMONS,

Plaintiff,

v.

TERI SCHWARTZ,

Defendant.

Case No. CV 14-1252-JFW (JEM)

ORDER ACCEPTING FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

On February 28, 2014, the United States Magistrate Judge issued a Report and Recommendation, recommending that Plaintiff's civil rights complaint pursuant to 42 U.S.C. § 1983 ("Complaint") be dismissed without leave to amend and the action be dismissed in its entirety. Thereafter, on March 17, 2014, Plaintiff filed Objections to the Report and Recommendation ("Objections").

To the extent Plaintiff raises new claims in his Objections, the Court finds Plaintiff's contentions have no basis in law or fact and are incurably frivolous. See Andrews v. King, 398 F.3d 1113, 1121 (9th Cir. 2005) (finding that a case or claim "is frivolous if it is of little weight or importance: having no basis in law or fact") (internal quotation marks and citations omitted). Plaintiff's remaining contentions in the Objections are without merit and warrant no comment.

1 Pursuant to 28 U.S.C. Section 636, the Court has reviewed the Complaint, the records
2 on file, and the Report and Recommendation of the United States Magistrate Judge. The Court
3 has engaged in a de novo review of those portions of the Report and Recommendation to
4 which Plaintiff has objected. The Court accepts the findings and recommendations of the
5 Magistrate Judge.

6 Accordingly, IT IS HEREBY ORDERED that: (1) Plaintiff's Motion for Preliminary
7 Injunction be denied; (2) Plaintiff's Complaint be dismissed without leave to amend; and (3) this
8 action be dismissed in its entirety, with prejudice as to Plaintiff's damages claims under federal
9 law and without prejudice as to Plaintiff's damages claims under state law and his claims for
10 equitable relief.

11
12 DATED: April 8, 2014



JOHN F. WALTER
UNITED STATES DISTRICT JUDGE